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9 **BEFORE THE**
PHYSICIAN ASSISTANT BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 950-2020-003008

13 **GEORGE DAVID GUIDO, P.A.**
14 **13861 River Ranch Circle**
Saratoga, CA 95070

ACCUSATION

15
16 **Physician Assistant License No. PA 51518**

17 Respondent.

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19
20 **PARTIES**

21 1. Rozana Khan (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

23 2. On March 21, 2014, the Physician Assistant Board issued Physician Assistant License
24 Number PA 51518 to GEORGE DAVID GUIDO, P.A. (Respondent). The Physician Assistant
25 License is delinquent with the expiration date of September 30, 2021, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Physician Assistant Board (Board), under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3504.1 of the Code states:

“Protection of the public shall be the highest priority for the Physician Assistant Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

5. Section 3527 of the Code states:

“(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a PA license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

“(b) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

“...”

“(e) The expiration, cancellation, forfeiture, or suspension of a PA license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.”

6. Section 3531 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which is substantially related to the qualifications, functions,

1 or duties of the business or profession to which the license was issued is deemed to be a
2 conviction within the meaning of this chapter. The board may order the license suspended or
3 revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment
4 of conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
6 Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and
7 to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
8 information, or indictment.”

9 7. Section 2227 of the Code states:

10 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical
11 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
12 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
13 action with the board, may, in accordance with the provisions of this chapter:

14 “(1) Have his or her license revoked upon order of the board.

15 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
16 order of the board.

17 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
18 order of the board.

19 “(4) Be publicly reprimanded by the board. The public reprimand may include a
20 requirement that the licensee complete relevant educational courses approved by the board.

21 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
22 the board or an administrative law judge may deem proper.

23 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
24 review or advisory conferences, professional competency examinations, continuing education
25 activities, and cost reimbursement associated therewith that are agreed to with the board and
26 successfully completed by the licensee, or other matters made confidential or privileged by
27 existing law, is deemed public, and shall be made available to the public by the board pursuant to
28 Section 803.1.”

1 8. Section 2234 of the Code states:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.”

7 “...”

8 “(f) Any action or conduct that would have warranted the denial of a certificate.”

9 9. Section 2236 of the Code states:

10 “(a) The conviction of any offense substantially related to the qualifications, functions, or
11 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
12 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
13 evidence only of the fact that the conviction occurred.

14 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
15 Division of Medical Quality of the pendency of an action against a licensee charging a felony or
16 misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice
17 shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting
18 agency shall also notify the clerk of the court in which the action is pending that the defendant is
19 a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a
20 physician and surgeon.

21 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
22 after the conviction, transmit a certified copy of the record of conviction to the board. The
23 division may inquire into the circumstances surrounding the commission of a crime in order to fix
24 the degree of discipline or to determine if the conviction is of an offense substantially related to
25 the qualifications, functions, or duties of a physician and surgeon.

26 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
27 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
28 shall be conclusive evidence of the fact that the conviction occurred.”

1 10. California Code of Regulations, title 16, section 1399.525, states:

2 “For the purposes of the denial, suspension or revocation of a license pursuant to division
3 1.5 (commencing with section 475) of the code, a crime or act shall be considered to be
4 substantially related to the qualifications, functions or duties of a person holding a license under
5 the Physician Assistant Practice Act if to a substantial degree it evidences present or potential
6 unfitness of a person holding such a license to perform the functions authorized by the license in a
7 manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but
8 are not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of, or conspiring to violate any provision or term of the Medical Practice Act.

11 “(b) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
12 violation of, or conspiring to violate any provision or term of the Physician Assistant Practice
13 Act.

14 “(c) A conviction of child abuse.

15 “(d) Conviction as a sex offender.

16 “(e) Any crime or act involving the sale, gift, administration, or furnishing of
17 narcotics or dangerous drugs or dangerous devices, as defined in Section 4022 of the code.

18 “(f) Conviction for assault and/or battery.

19 “(g) Conviction of a crime involving lewd conduct.

20 “(h) Conviction of a crime involving fiscal dishonesty.

21 “(i) Conviction for driving under the influence of drugs or alcohol.”

22 11. Section 490 of the Code states:

23 “(a) In addition to any other action that a board is permitted to take against a licensee, a
24 board may suspend or revoke a license on the ground that the licensee has been convicted of a
25 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
26 or profession for which the license was issued.

27 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
28 discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
2 of the business or profession for which the licensee's license was issued.

3 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
4 conviction following a plea of nolo contendere. Any action that a board is permitted to take
5 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
6 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
7 made suspending the imposition of sentence, irrespective of a subsequent order under the
8 provisions of Section 1203.4 of the Penal Code.

9 (d) The Legislature hereby finds and declares that the application of this section has been
10 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
11 554, and that the holding in that case has placed a significant number of statutes and regulations
12 in question, resulting in potential harm to the consumers of California from licensees who have
13 been convicted of crimes. Therefore, the Legislature finds and declares that this section
14 establishes an independent basis for a board to impose discipline upon a licensee, and that the
15 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change
16 to, but rather are declaratory of, existing law.”

17 12. Section 493 of the Code states:

18 “(a) Notwithstanding any other law, in a proceeding conducted by a board within the
19 department pursuant to law to deny an application for a license or to suspend or revoke a license
20 or otherwise take disciplinary action against a person who holds a license, upon the ground that
21 the applicant or the licensee has been convicted of a crime substantially related to the
22 qualifications, functions, and duties of the licensee in question, the record of conviction of the
23 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

24 “(b) (1) Criteria for determining whether a crime is substantially related to the
25 qualifications, functions, or duties of the business or profession the board regulates shall include
26 all of the following:

27 “(A) The nature and gravity of the offense.

28 “(B) The number of years elapsed since the date of the offense.

1 “(C) The nature and duties of the profession.

2 “(2) A board shall not categorically bar an applicant based solely on the type of conviction
3 without considering evidence of rehabilitation.

4 “(c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and
5 “registration.”

6 “...”

7 “(e) This section shall become operative on July 1, 2020.”

8 **COST RECOVERY**

9 13. Business and Professions Code section 125.3 states that:

10 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
11 proceeding before any board within the department or before the Osteopathic Medical Board
12 upon request of the entity bringing the proceeding, the administrative law judge may direct a
13 licensee found to have committed a violation or violations of the licensing act to pay a sum not to
14 exceed the reasonable costs of the investigation and enforcement of the case.

15 “(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order
16 may be made against the licensed corporate entity or licensed partnership.

17 “(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs
18 are not available, signed by the entity bringing the proceeding or its designated representative
19 shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.
20 The costs shall include the amount of investigative and enforcement costs up to the date of the
21 hearing, including, but not limited to, charges imposed by the Attorney General.

22 “(d) The administrative law judge shall make a proposed finding of the amount of
23 reasonable costs of investigation and prosecution of the case when requested pursuant to
24 subdivision (a). The finding of the administrative law judge with regard to costs shall not be
25 reviewable by the board to increase the cost award. The board may reduce or eliminate the cost
26 award, or remand to the administrative law judge if the proposed decision fails to make a finding
27 on costs requested pursuant to subdivision (a).

1 “(e) If an order for recovery of costs is made and timely payment is not made as directed in
2 the board’s decision, the board may enforce the order for repayment in any appropriate court.
3 This right of enforcement shall be in addition to any other rights the board may have as to any
4 licensee to pay costs.

5 “(f) In any action for recovery of costs, proof of the board’s decision shall be conclusive
6 proof of the validity of the order of payment and the terms for payment.

7 “(g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the
8 license of any licensee who has failed to pay all of the costs ordered under this section.

9 “(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or
10 reinstate for a maximum of one year the license of any licensee who demonstrates financial
11 hardship and who enters into a formal agreement with the board to reimburse the board within
12 that one-year period for the unpaid costs.

13 “(h) All costs recovered under this section shall be considered a reimbursement for costs
14 incurred and shall be deposited in the fund of the board recovering the costs to be available upon
15 appropriation by the Legislature.

16 “(i) Nothing in this section shall preclude a board from including the recovery of the costs
17 of investigation and enforcement of a case in any stipulated settlement.

18 “(j) This section does not apply to any board if a specific statutory provision in that board’s
19 licensing act provides for recovery of costs in an administrative disciplinary proceeding.

20 **FACTUAL ALLEGATIONS**

21 **August 4, 2021 Conviction**

22 14. On August 4, 2021, in the case entitled the *People of the State of California v. George*
23 *David Guido*, case number C2101480, in the Superior Court of California, County of Santa Clara,
24 Respondent, upon his plea of no contest, was convicted of the crime of inflicting corporal injury
25 on a spouse, cohabitant, former spouse or former cohabitant and willfully inflicting upon S.G., his
26 spouse, corporal injury resulting in a traumatic condition, in violation of Penal Code section
27 273.5(a), a felony. Respondent was placed on three years probation with the following terms and
28 conditions:

- 1 A. Serve 90 days in custody;
- 2 B. Complete 200 hours of community service; and
- 3 C. Complete 52 weeks of a domestic violence program.

4 15. The circumstances leading to Respondent's August 2021 conviction are as follows:

5 A. At approximately 10:49 p.m. on October 8, 2020, Deputies of the Sheriff of
6 Santa Clara County responded to a report of domestic violence made at the Good Samaritan
7 Hospital located at 2425 Samaritan Drive in San Jose, California. Upon arrival, Nurse L.N.
8 advised of a husband, Respondent, and wife in the Emergency Room for facial trauma and neck
9 pain the wife sustained after being pushed by Respondent.

10 B. Deputy J.F. conducted an investigation at the Good Samaritan Hospital. At the
11 hospital, officers encountered Respondent, husband to S.G. Respondent told the officers that
12 Respondent and his wife had a verbal argument that began in the morning and continued
13 throughout the day. At approximately 10:30 p.m., Respondent claimed to be going to bed when
14 S.G. began throwing his stuff in the bathroom. Respondent entered the bathroom and used his
15 right arm to grab S.G. around the neck and put her in a choke hold. Respondent claimed S.G. then
16 fell, hitting her face on the bathroom wall. Neither Respondent nor S.G. called 911. Respondent
17 drove S.G. to the hospital for medical treatment.

18 C. At approximately 11:10 p.m., Deputy J.F. placed Respondent in handcuffs and
19 informed him he was being arrested for domestic violence.

20 D. At approximately 11:15 p.m., Deputy J.F. interviewed Nurse L.N. who saw
21 S.G. come into the Emergency Room with Respondent. S.G. was holding her nose and appeared
22 to have bruising and swelling on her face. S.G. was admitted into the Emergency Room. During
23 the initial evaluation, Nurse L.N. asked S.G. what happened to her face. S.G. told Nurse L.N. that
24 she fell and hit her face on the corner of a wall. S.G. told Nurse L.N. that her husband,
25 Respondent, pushed her. Nurse L.N. told Officer J.F. that a CT scan was performed on S.G. based
26 on the extent of her injuries. Nurse L.N. said S.G. sustained a broken nose, nasal deformity, facial
27 trauma, swelling and bruising around her face, and had complaints of neck pain. Officer J.F.
28 informed Nurse L.N. that Respondent said he put S.G. in a choke hold. Nurse L.N. said the

1 medical team would do additional evaluation to make sure there were no additional non-visible
2 injuries sustained to S.G.'s neck and throat from possible strangulation.

3 E. At approximately 11:25 p.m., Deputy J.F. made contact with S.G. Deputy J.F.
4 observed that S.G. was in a hospital bed and had facial swelling, bruising, redness around her
5 nose and eyes, and dry blood around her nose. S.G.'s nose appeared to be broken and was
6 extremely red and swollen. S.G. looked uncomfortable and appeared to be in a lot of pain.

7 F. In her statement to Officer J.F., S.G. stated that S.G. and Respondent had been
8 spending a lot of time together due to the COVID-19 shelter in place order and recently had a lot
9 of verbal arguments. Beginning on the morning of October 8, 2020, S.G. and Respondent argued
10 through the entire day into the evening. At approximately 10:30 p.m., while Respondent was in
11 bed, S.G. went into the bathroom and began throwing Respondent's stuff around because she was
12 upset. S.G. said Respondent entered the bathroom and used both of his hands to grab her around
13 her neck. S.G. said Respondent choked her and threw her down. S.G. said she hit her face on the
14 corner of the wall when Respondent threw her to the ground. S.G. felt blood pour out of her nose
15 after her face hit the wall, cried hysterically, and was in a lot of pain.

16 G. At the hospital, S.G. complained of pain around her back and neck and she had
17 pain in her throat when she swallowed. S.G. had signs of redness on the left side of her neck,
18 approximately one inch left of her throat. S.G. also had what appeared to be redness and bruising
19 on her left forearm that was caused by her fall.

20 H. Deputy J.F. offered S.G. an Emergency Protective Restraining Order (EPRO)
21 which she declined. On scene, Deputy S. contacted the on-call judge due to the severity of S.G.'s
22 injuries. The judge issued an EPRO. Deputy S. served Respondent with the EPRO.

23 I. Respondent was arrested for felony domestic violence in violation of Penal
24 Code section 273.5(a).

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Conviction of Substantially Related Crime)

27 16. By reason of the facts set forth in paragraphs 14 through 15, above, Respondent is
28 subject to disciplinary action under Code sections 490 [discipline for substantially related crimes],

2236, subdivision (a) [conviction of offense related to qualification, function, or duties], and 3531 [conviction of felony or other offenses], and California Code of Regulations, title 16, section 1399.525 [substantial relationship criteria] in that Respondent has been convicted of crimes substantially related to the qualifications, functions, or duties of a physician assistant.

17. Respondent's acts and/or omissions as set forth in paragraphs 14 through 15, above, whether proven individually, jointly, or in any combination thereof, constitutes the conviction of crimes substantially related to the qualifications, functions or duties of a physician assistant, pursuant to sections 490, 2236, subdivision (a), and 3531 of the Code and the California Code of Regulations, title 16, section 1399.525.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

18. By reason of the facts set forth in paragraphs 14 through 15, above, Respondent is subject to disciplinary action under Code section 2234 [unprofessional conduct] and 3527 [denial, suspension or revocation of physician assistant license for unprofessional conduct] in that Respondent has been convicted of crimes substantially related to the qualifications, functions, or duties of a physician assistant.

19. Respondent's acts and/or omissions set forth in paragraphs 14 through 15, above, whether proven individually, jointly, or in combination thereof, constitute unprofessional conduct pursuant to sections 2234 and 3527 of the Code.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physician Assistant Board issue a decision:

1. Revoking or suspending Physician Assistant License Number PA 51518, issued to GEORGE DAVID GUIDO, P.A.;

2. Ordering GEORGE DAVID GUIDO, P.A. to pay the Physician Assistant Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

1 3. Ordering GEORGE DAVID GUIDO, P.A., if placed on probation, to pay the
2 Physician Assistant Board the costs of probation monitoring; and,

3 4. Taking such other and further action as deemed necessary and proper.
4
5

6 DATED: November 2, 2022

Rozana Khan

ROZANA KHAN
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant

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